

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING
IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-05-4890.M5

MDR Tracking Number: M5-05-1266-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution –General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 12-08-04.

The IRO reviewed therapeutic exercises, ultrasound, fluidotherapy, chiropractic manipulative treatment (extraspinal, one or more regions), level III office visits rendered from 03-29-04 to 06-25-04 that were denied based upon “U”.

The IRO determined that fluidotherapy (97039) on all dates of service, ultrasound (97035) from 04-30-04 through 06-25-04 and chiropractic manipulative treatment extraspinal one or more regions (98943) on all dates of service **were not** medically necessary. The IRO determined that all remaining services **were** medically necessary.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the **majority** of issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This Findings and Decision is hereby issued this 11th day of February 2005.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby **ORDERS** the respondent to pay for the unpaid medical fees in accordance with the Medicare program reimbursement methodologies effective August 1, 2003 per Commission Rule

134.202(c), plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Decision is applicable for dates of service 03-29-04 through 06-25-04 in this dispute.

This Order is hereby issued this 11th day of February 2005.

Margaret Ojeda, Manager
Medical Dispute Resolution
Medical Review Division

MQO/dlh

Enclosure: IRO Decision



Specialty Independent Review Organization, Inc.

February 9, 2005

Hilda Baker
TWCC Medical Dispute Resolution
7551 Metro Center Suite 100
Austin, TX 78744

Patient:
TWCC #:
MDR Tracking #: M5-05-1266-01
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Chiropractor. The reviewer is on the TWCC ADL. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

___ was working as a packer for G&A Outsourcing when his left hand was pulled into a meat cutter which he was using. The date of accident is ___ according to the records available. The first surgical procedure was performed on 11/6/03 by Jerry Hyatt, MD. Two amputations were performed of the left index and ring fingers. He was then treated with passive therapies progressing to physical therapy. A second surgery was performed on 3/10/04 including a left index and ring finger contracture release amongst other procedures. He treated with Jack Barnett, DC, Donna Canlas, MD and Jacob Vernon, MD. He was sent for a designated doctor examination with Justo Avila, MD who indicated the patient was not at MMI as of 4/20/04. Dr. Avila indicated the patient would likely be at MMI on or about 8/20/04. He indicated the patient requires continued physical therapy. He continued treatment beyond this date leading up to an evaluation for work hardening in late June of 2004. Treatment records beyond this time are not available for review.

Records were requested from the requestor, treating doctor and the respondent via fax and phone calls if necessary. Records were received from the requestor and treating doctor. Records were not received from the respondent despite multiple requests. Records from the requestor and treating doctor include the following: tables of disputed services, requestor's position statement letter, 11/10/03 through 1/5/04 notes by Jerry Hyatt, MD, TWCC 53, 1/7/04 report by Donna Canlas, MD, follow up reports by Dr. Canlas from 1/27/04 through 07/13/04, notes by Jacob Varon, MD 2/2/04-04/29/04, operative report of 3/10/04, 3/29/04 through 6/25/04 notes of Lakewood Chiropractic, Spanish pain sheet from 3/29/04 through 6/25/04, 3/29/04 subsequent medical report by Jack Barnett, DC, shoulder/wrist/hand worksheets from 3/29/04 through 6/25/04, DD report of 4/20/04 by Justo Avila, MD (not at MMI), Physical Medicine referrals 4/27/04 by Houston Hand Clinic, 6/10/04 FCE worksheet #2, 6/15/04 FCE worksheet #1, FCE of 6/15/04 (narrative report indicates 6/17/04, 5/4/04 script by Dr. Canlas, various TWCC 73's, 11/6/03 operative report, radiology report from Tomball Regional Hospital, 6/29/04 Behavioral Consultation for WH program. A total of 128 pages were sent by the requestor alone.

DISPUTED SERVICES

Disputed services include the following according to the Notification of IRO Assignment: 97110, 97035, 97039-FT, 98943, 99213 as denied by the carrier with 'U' codes (not medically necessary based upon no peer review).

DECISION

The reviewer agrees with the previous adverse determination regarding codes: **97039-FT** on all dates of service, **97035** from 4/30/04 through 6/25/04 and **98943** on all dates of service.

The reviewer disagrees with the previous adverse determination regarding all remaining services.

BASIS FOR THE DECISION

The documentation reviewed indicates the injured employee's PDL is of a 'heavy' nature. According to the Medical Disability Advisor an employee with a heavy PDL usually needs 63 days of post surgical recovery time prior to returning to work; however, the advisor indicates that this is based upon a non-complicated case. ___ developed a neuroma which leads to supersensitivity yielding a longer healing time and a confirmed procedure complication according to Dr. Reed. The procedures which were approved fall within the normally accepted evaluation/management and physical therapy guidelines for rehabilitation accepted within the medical community. The reviewer states that the unspecified code 97039-FT is not documented as per Medicare requirements. The reviewer indicates further that ultrasound is generally not performed beyond four weeks due to its passive nature and its tendency to lead to doctor dependence. Extrapinal manipulation was performed on each visit by the provider; it is not clear in the documentation why this was performed. It is the reviewer's opinion that manipulation is not an approved method of treatment for an amputation injury of this nature.

References:

Medicare Policy Payment Guidelines

ACOEM Guidelines

Medical Disability Advisor, Presley Reed, MD

Calandruccio, James H. "Amputations." Campbell's Operative Orthopedics, 9th ed, volume 4. Canale, S. Terry, ed. St. Louis: Mosby, 1998. 3517-3547.

Louis, Dean S. "Amputations." Operative Hand Surgery, 3rd ed, volume 1. Green, David P, ed. New York: Churchill Livingstone, 1993. 53-99.

Council of Chiropractic Physiological Therapeutics and Rehabilitation Guidelines

Ziskin, MD, et al. "Therapeutic Ultrasound." Thermal Agents in Rehabilitation. Michlovitz, Susan L, ed. Philadelphia: F.A. Davis Company, 1990. 134-169.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,

Wendy Perelli, CEO

CC: Specialty IRO Medical Director